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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Takashi KUMAGAI et al.

Application No.: 09/827,391

Filed: April 6, 2001

For: SEMICONDUCTOR DEVICE

Group Art Unit: 2818

Examiner: M. Tran

Docket No.: 109191

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the May 2, 2003, Office Action, reconsideration of the rejection is respectfully requested in light of the following remarks.

Claims 1-9 are pending herein. By the Office Action, claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting.

I. Double Patenting Rejection

The Office Action rejected claims 1-9 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-20 of U.S. Patent No. 6,407,463 (Kumagai '463). This rejection is respectfully traversed.

The cited claims of Kumagai '463 teach a semiconductor memory device which stores data by a flip-flop configured of a first inverter and a second inverter. The semiconductor memory device taught by the claims of Kumagai '463 comprises a first gate electrode layer, a second gate electrode layer, a first drain-contact layer and a second drain-contact layer

wherein the first and second gate electrode layers are positioned between the first drain-contact layer and the second drain-contact layer. See, for example, Kumagai '463 claim 1.

In order to sustain the double patenting rejection, the Patent Office must demonstrate that the instant claimed invention would have been obvious over the cited claims of Kumagai '463. However, nowhere do the claims of Kumagai '463 teach or suggest a semiconductor circuit section that specifically does not have a wiring layer at the same level as the first drain-drain contact layer and the second drain-drain contact layer, as required in independent claim 1. Nowhere do the cited claims of Kumagai '463 teach or suggest any specific details with respect to a wiring layer, and that the wiring layer should not be at the same level as the first drain-drain contact layer and the second drain-drain contact layer, as claimed.

In the absence of any specific teachings regarding the placement of a wiring layer, the claims of Kumagai '463 are insufficient to have rendered obvious the claimed invention to one of ordinary skill in the art at the time of the present invention. The claims of Kumagai '463 do not teach or suggest this claimed feature, and do not teach or suggest that the structure of Kumagai '463 could or should be modified to provide the claimed invention.

Accordingly, Applicants respectfully submit that Kumagai '463 would not have led one of ordinary skill in the art to the invention of claims 1-9. Reconsideration and withdrawal of this rejection are thus respectfully requested.

II. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-9 are earnestly solicited.

Should the Examiner believe that anything further is desirable in order to place this application in better condition for allowance, the Examiner is invited to contact the Applicants' representative at the telephone number listed below.

Respectfully submitted,



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Date: August 4, 2003

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